

STANDARD APPLICATION
Harford County
Board of Appeals
Bel Air, Maryland 21014

RECEIVED

Case No.

5484

Date Filed

3/24/05

Hearing

Date

Receipt

\$600

HARFORD COUNTY COUNCIL

Shaded Areas for Office Use Only

Type of Application

Nature of Request and Section(s) of Code

- ☐ Administrative Decision/Interpretation
☒ Special Exception
☐ Use Variance
☐ Change/Extension of Non-Conforming Use
☐ Minor Area Variance
☐ Area Variance
☐ Variance from Requirements of the Code
☐ Zoning Map/Drafting Correction

CASE 5484 MAP 33 TYPE Special Exception

ELECTION DISTRICT 03 LOCATION 2628 Rocks Road, Forest Hill

BY Kelly & Geraldine McGill, 2628 Rocks Road, Forest Hill, MD

Appealed because a special exception pursuant to Sec. 267-53D (1) and Sec. 267-53H (1) of the Harford County Code to allow commercial motor vehicle and equipment storage and construction services and suppliers in the Ag district requires approval by the Board.

Note: A pre-conference is required for property within the NRD/Critical Area or requests for an integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name Kelly F. McGill Phone Number call attorney

Address 2628 Rocks Road Forest Hill MD 21050-1502
Street Number Street City State Zip Code

Co-Applicant Geraldine A. McGill Phone Number call attorney

Address 2628 Rocks Road Forest Hill MD 21050-1502
Street Number Street City State Zip Code

Contract Purchaser N/A Phone Number

Address
Street Number Street City State Zip Code

Attorney/Representative John J. Gessner, Esq. Phone Number 410-893-7500

Address 11 S. Main Street Bel Air MD 21014
Street Number Street City State Zip Code

Land Description

Address and Location of Property 26.21 acres Rocks Road N of Forest Hill; Lot 2 4.9 acres
2628 Rocks Road McGill Farm PT 89/84

Subdivision McGill Farm Lot Number 2

Acreage/Lot Size 26.21+; 4.9⁺ Election District 3 Zoning AG

Tax Map No. 33 Grid No. 3C Parcel 424; 26 Water/Sewer: Private X Public

List ALL structures on property and current use: single family detached dwelling; 3 metal buildings
residential; construction services & suppliers use; commercial vehicle &
equipment storage

Estimated time required to present case: 30 minutes

If this Appeal is in reference to a Building Permit, state number N/A

Would approval of this petition violate the covenants and restrictions for your property? N/A

Is this property located within the County's Chesapeake Bay Critical Area? Yes No X

If so, what is the Critical Area Land Use designations:

Is this request the result of a zoning enforcement investigation? Yes X No

Is this request within one (1) miles of any incorporated town limits? Yes No X

Request

See attached

Justification

See attached

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

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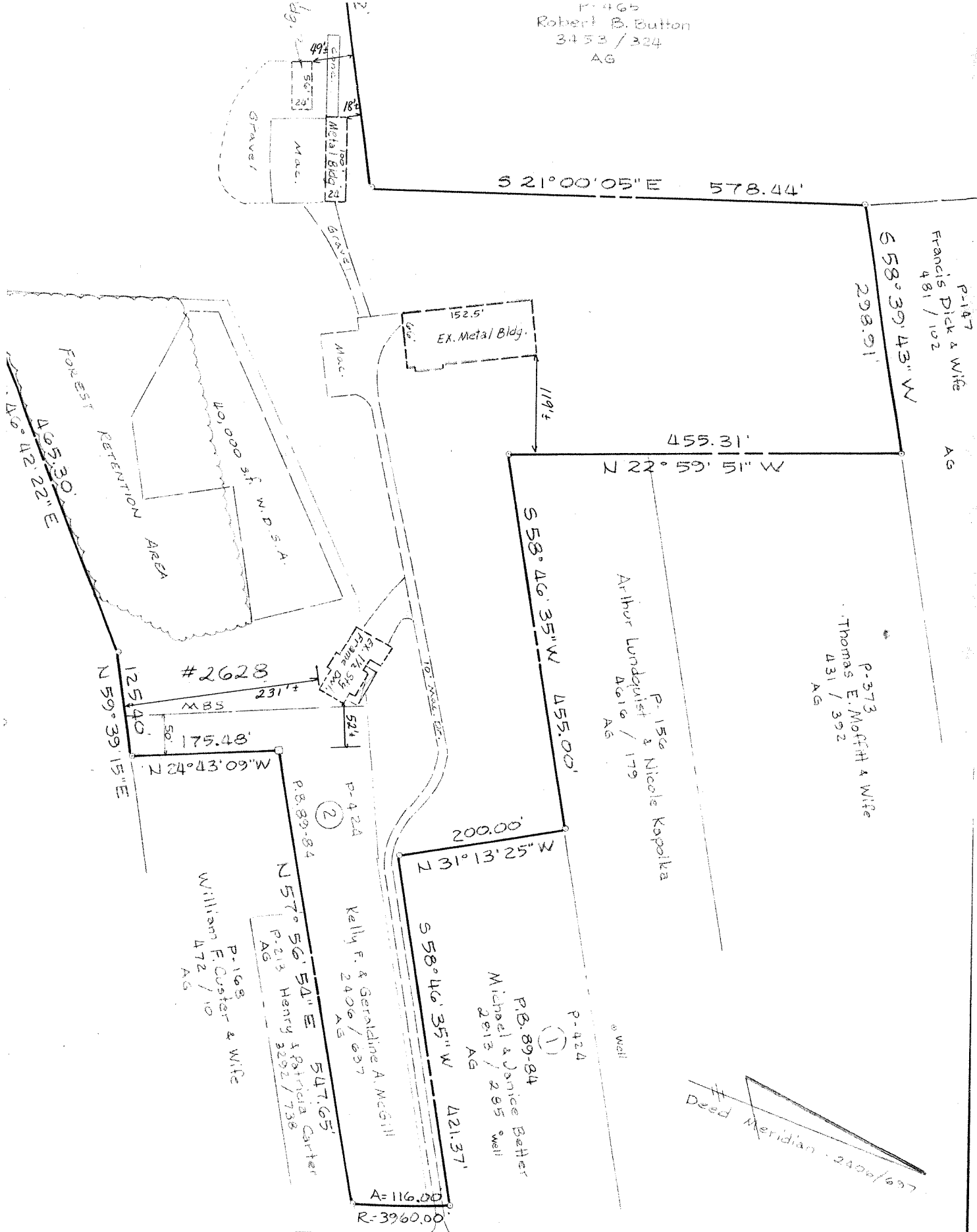
**ATTACHMENT TO APPLICATION OF KELLY F. MCGILL AND GERALDINE
A. MCGILL**

REQUEST:

1. Special Exception for Commercial Motor Vehicle and Equipment Storage on the subject property zoned AG, Agricultural, pursuant to Section 267-53 (D)(1) of the Harford County Zoning Code ("Code") as shown on the attached site plan.
2. Special Exception for Construction Services and Suppliers' Uses on the subject property zoned AG, Agricultural, pursuant to Section 267-53 (H)(1) of the Harford County Zoning Code ("Code") as shown on the attached site plan.

JUSTIFICATION:

The Applicants seek approval to conduct a hauling and excavating business from the subject property including accessory minor vehicle and equipment repairs. No more than ten (10) dump trucks and ten (10) pieces of equipment, including backhoes, bulldozers, excavators and crawlers, will be used in the business. The subject property is an ideal location for such a use. Approval of the Applicants' request will cause no adverse impact to adjoining property owners.



JAMES M. HARKINS
HARFORD COUNTY EXECUTIVE

JOHN J. O'NEILL, JR.
DIRECTOR OF ADMINISTRATION



J. STEVEN KAH-ZIEGLER
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

April 7, 2005

STAFF REPORT

BOARD OF APPEALS CASE NO. 5484

APPLICANT/OWNER: Kelly F. McGill
2628 Rocks Road, Forest Hill, Maryland 21050-1502

Co-APPLICANT: Geraldine A. McGill
2628 Rocks Road, Forest Hill, Maryland 21050-1502

REPRESENTATIVE: John J. Gessner
11 South Main Street, Bel Air, Maryland 21014

LOCATION: 2628 Rocks Road – McGill Farm
Tax Map: 33 / Grid: 3C / Parcels: 424: 26
Election District: Third (3)

ACREAGE: 26.21 acres (Parcel 26)
4.9 acres (Lot 2)

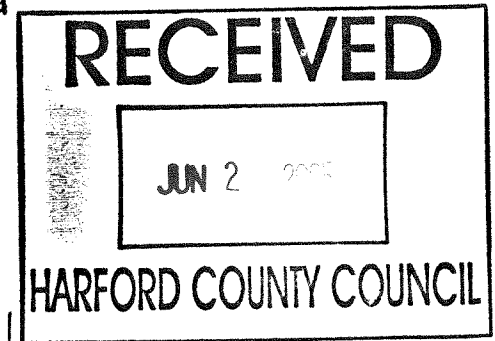
ZONING: AG/Agricultural

DATE FILED: March 24, 2005

HEARING DATE: July 20, 2005

APPLICANT'S REQUEST and JUSTIFICATION:

See ATTACHMENT 1.



Preserving our values, protecting our future

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CODE REQUIREMENTS:

The Applicants are requesting a Special Exception pursuant to Sections 267-53D(1) and 267-53H(1) of the Harford County Code to allow commercial vehicle and equipment storage and construction services and suppliers in the AG/Agricultural District.

Section 267-53D(1) of the Harford County Code reads:

D. Motor Vehicle and related services.

- (1) Commercial vehicle and equipment storage and farm vehicle and equipment sales and service. These uses may be granted in the AG District, and commercial vehicle and equipment storage may be granted in the VB District, provide that:*
- (a) The vehicles and equipment are stored entirely within an enclosed building or fully screened from view of adjacent residential lots and public roads.*
 - (b) The sales and service of construction and industrial equipment may be permitted as an accessory use incidental to the sales and service of farm vehicles and equipment.*
 - (c) A minimum parcel area of two (2) acres shall be provided.*

Section 267-53H(1) of the Harford County Code reads:

H. Services. [Amended by Bill No. 97-54]

- (1) Construction services and suppliers. These uses may be granted in the AG and VB Districts, provided that a buffer yard ten feet wide shall be provided around all outside storage and parking areas when adjacent to residential lot or visible from a public road.*

Enclosed with the report is a copy of Section 267-51 and 267-52 of the Harford County Code (Attachment 2).

Section 267-9I of the Harford County Code entitled Limitation, Guides and Standards will be discussed in detail later in the report.

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicant's property is located north of Forest Hill, on the west side of Rocks Road (MD Route 24), across from Grier Nursery Road. A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 3 and 4).

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The subject property is located just north of the Rural Village of Forest Hill and is outside of the Development Envelope. The predominant land use designation is Agricultural with areas of Rural Residential to the south. The Natural Features Map reflects Deer Creek Scenic River Districts, Sensitive Species Project Review Areas, stream systems, Rural Legacy Areas and Agricultural Preservation Districts and Easements. The subject property is designated Agricultural, which is defined by the 2004 Master Plan as:

Agricultural – Areas where agriculture is the primary land use, but where developments rights are available. Residential development is possible at a density of 1.0 dwelling unit for every 10 acres. Commercial uses within this area are intended to serve the agriculture industry or residents of the area while maintaining the character of the surrounding countryside.

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 5 and 6).

Land Use – Existing:

The existing land uses in this area of the County are consistent with the 2004 Master Plan. There is a mix of agricultural and residential uses. Commercial uses are located to the south around the Village of Forest Hill. The topography in this area ranges from rolling to steep especially near Deer Creek and its many tributaries. Enclosed with the report is a copy of the topography map and the aerial photograph (Attachments 7 and 8).

The Applicants own a 4.9± acre lot and a 26.2± acre parcel that total approximately 31.1± acres. These properties have a total of 116-feet of frontage on Rocks Road. The property is unusually shaped with a mix of open land and dense woodland. The topography is typical for the area ranging from rolling to steep. There is a stream that traverses the property. Improvements consist of a 2-story dwelling with an attached 2-car garage that is located to the left of the driveway, approximately 650-feet back from Route 24. Continuing back approximately 1000-feet from the road and to the right of the driveway is a large metal agricultural building. Approximately 1200-feet back from Route 24 are two metal buildings, a large concrete pad, and an area where the Applicant parks and stores his trucks and equipment used in his business. Due to the topography none of the improvements except for the top of the roof of the dwelling are visible from the road. Enclosed with the report are site photographs along with an enlargement of the aerial photograph (Attachments 9 and 10).

According to the site plan the Applicants' house is not properly located and is over the property line. These two properties will need to be combined and recorded as one lot.

Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. The predominant zoning classification is AG/Agricultural. Residential

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zoning ranges from RR/Rural Residential to VR/Village Residential. Commercial zoning located to the south includes VB/Village Business and CI/Commercial Industrial. The subject property is zoned AG/Agricultural as shown on the enclosed copy of the zoning map (Attachment 11).

Zoning Enforcement:

The subject request is the result of a Zoning Enforcement investigation. This Department received a complaint on June 22, 2004 that Kelly Construction Company was being operated from the property. The Department conducted a site inspection on July 6, 2004 and spoke to the property owner, Mr. McGill. He advised the inspector that he owned the business and had his office at this same location. Mr. McGill thought that the business was a permitted use. He stated that if a Special Exception approval is required he would like to apply. The Department sent Mr. McGill a letter on October 29, 2004 discussing the findings of the inspection and his need to either remove the business or seek Board of Appeals approval. Enclosed with the report are copies from the Zoning Enforcement file for informational purposes only (Attachment 12).

SUMMARY:

The Applicants are requesting a Special Exception pursuant to Sections 267-53D(1) and 267-53H(1) of the Harford County Code to allow commercial vehicle and equipment storage and construction services and suppliers in the AG/Agricultural District.

The Applicant owns and operates a hauling and excavating business from the subject property including minor vehicle and equipment repairs. No more than ten (10) dump trucks and ten (10) pieces of equipment, including backhoes, bulldozers, excavators and crawlers will be used in the business.

Section 267-53D(1):

D. Motor Vehicle and related services.

- (1) Commercial vehicle and equipment storage and farm vehicle and equipment sales and service. These uses may be granted in the AG District, and commercial vehicle and equipment storage may be granted in the VB District, provide that:*

The subject property is zoned AG/Agricultural.

- (a) The vehicles and equipment are stored entirely within an enclosed building or fully screened from view of adjacent residential lots and public roads.*

The vehicles and equipment will be stored in an area that is not visible from the road or adjacent properties due to the topography of the property and the existing forested areas. The applicants

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may also utilize the 152 ft x 66 ft building or the 24 ft x 56 ft building for storage. The 100 ft x 20 ft building will not be used for the business since it does not meet the minimum setback of 40 feet from the property line.

- (b) *The sales and service of construction and industrial equipment may be permitted as an accessory use incidental to the sales and service of farm vehicles and equipment.*

There will be no sales or vehicles at this location. The only service performed will be minor maintenance and repairs of the applicants' own vehicles and equipment.

- (c) *A minimum parcel area of two (2) acres shall be provided.*

The Applicants' two properties will be combined to create a 31.1± acre lot.

Section 267-53H(1):

H. Services. [Amended by Bill No. 97-54]

- (1) *Construction services and suppliers. These uses may be granted in the AG and VB Districts, provided that a buffer yard ten feet wide shall be provided around all outside storage and parking areas when adjacent to residential lot or visible from a public road.*

As previously stated, the area used for outside storage is not visible from the road or adjacent properties.

Section 267-9I:

- (1) *The number of persons living or working in the immediate area.*

The subject property is located in a rural area of the County. The primary land use in the area is Agriculture with large active farms and large areas of dense woodland. There are also some large lot residential subdivisions in the area. Due to the land uses in this area of the County large equipment is common. The proposed use should not adversely impact individuals living or working in the area.

- (2) *Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic, and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.*

Rocks Road (MD Route 24) is a State owned and maintained road and this portion of the road is designated as a Major Collector Road in the Harford County Transportation Plan. The

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Applicants' driveway is opposite the intersection of Grier Nursery Road and MD 24. Sight distance is good and in both directions. The proposed use should not adversely impact traffic in the area.

- (3) *The orderly growth of the neighborhood and community and the fiscal impact on the county.*

The use is permitted in the Agricultural District as a Special Exception with Board of Appeals approval. The proposed storage area for the vehicles and equipment is approximately 1200-feet back from Route 24. Because of the topography and existing woods the use cannot be seen from the road and/or adjacent properties. The Applicants can meet or exceed the requirements for the intended use. The request will not have an adverse fiscal impact on the County.

- (4) *The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.*

The number of commercial vehicles and equipment proposed by this request will not have an adverse impact on the community based on the issues listed in this section.

- (5) *Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the county or persons to supply such services.*

The Harford County Sheriff's Office and the Maryland State Police will provide police protection. The Forest Hill and Bel Air Volunteer Fire Department will provide fire protection and emergency service. The property is served by private well and septic system. A company of the Applicants' choice will handle trash collection.

- (6) *The degree to which the development is consistent with generally accepted engineering and planning principles and practices.*

The request is consistent with generally accepted planning principles and practices.

- (7) *The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.*

The proposal should have no impact on any of the uses listed in this subsection.

- (8) *The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.*

The proposal is consistent with the Master Plan.

- (9) *The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.*

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The proposal will have no impacts on surrounding natural features.


(10) *The preservation of cultural and historic landmarks.*


The request should not impact any cultural or historic landmarks.

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the request be approved subject to the following conditions:

1. The Applicants shall submit a detailed site plan to be reviewed and approved through the Development Advisory Committee. The applicants shall also submit a preliminary plan combining the two properties to the Department of Planning and Zoning for review and approval. A final plat recording the properties as one lot shall be submitted to the County for approval and recordation in the County Land Records.
2. The Applicants shall obtain all necessary permits and inspections for the uses.
3. The approval is for the Applicants only and shall terminate upon the sale of the property.


Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review


Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/jf